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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,726	12/10/2003	William T. Ball	5564-152	2017
22442	7590	09/16/2008	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/732,726  
Filing Date: December 10, 2003  
Appellant(s): BALL, WILLIAM T.

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Craig W. Mueller  
For Appellant

**SUPPLEMENTAL EXAMINER'S ANSWER**

This is in response to the reply brief filed March 17, 2008 which is directed to the new ground of rejection made in the supplemental examiner's answer mailed January 30, 2008.

**Response to Argument**

Appellant argues at page 5 of the reply brief the Oropallo reference is not prior art to the instant application because appellant has claimed a filing date benefit(s) (under 35 U.S.C. 120) from a prior application(s) which predates the filing date of the reference. The examiner disagrees. For a CIP application to rely on an earlier filing date, the claimed invention in the CIP must be fully supported by the earlier application (MPEP 706.02 VI(B)). None of the applications relied upon by appellant disclose the claimed subject matter on appeal, notwithstanding appellant's bald statement to the contrary. Appealed claim 10 recites "a one-piece overflow fitting" (ln. 6) that includes "threads" (ln. 12). The 09/954,420 application (pat. 6,691,411) does not appear to disclose much of anything to do with an overflow fitting, noting Fig. 1 of the patent. The 10/229,533 application (pat. 6,675,406), claimed to be a continuation of application 09/593,724, does indeed disclose an overflow fitting. However, that overflow fitting is of a two-piece construction (relative to the claims) where the fitting or pipe 34 includes a separate fitting 58 which exhibits the threads 62, noting Fig. 4 of the patent. Furthermore, note

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the explicit disclosure in the '406 patent at column 2, lines 62-64. Both patents are part of the record in the instant application as being cited in the Information Disclosure Statement filed May 23, 2005.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Robert M. Fetsuga

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TC 3700 TQAS

**A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:**

/KAREN M. YOUNG/

Director, Technology Center 3700